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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/417,201	10/11/1999	BRETT EDWARD JOHNSON	10982213	7100

22879 7590 12/15/2003

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

ANYA, CHARLES E

ART UNIT	PAPER NUMBER
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2126

14

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/417,201	JOHNSON ET AL.	
	Examiner	Art Unit	
	Charles E Anya	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-11,13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 5 and 7 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 5,946,486 to Pekowski.

As to claim 1, Pekowski teaches an Event (“...a call...” Col. 4 Ln. 33 – 35, Col. 5 Ln. 1 – 5, Call 705/Call Parameters 715 Col. 10 Ln. 20 – 27), an Application Program Interface (Application Executable 50 Col. 4 Ln. 33 – 35, Application Executable Program 700 Col. 10 Ln. 20 – 42), a Generic Interception Communication Interface (Shadow DLL 155 Col. 4 Ln. 65 – 67, Col. 5 Ln. 1 – 18, Col. 5 Ln. 36 – 41, Shadow DLL 725 Col. 10 Ln. 20 – 42), an Interceptor Logic (Target DLL 160/ “...DLL...” Col. 5 Ln. 1 – 18, Target

DLL 710 Col. 10 Ln. 20 – 42) and transmitting the event to the interceptor logic if event participation is enabled/determining if event is to be processed (Step 275 Col. 6 Ln. 13 – 20).

As to claim 2 Pekowski teaches a plurality of events (“...all calls...” Col. 5 Ln. 1 – 5, step 250 Col. 6 Ln. 8 – 14).

As to claim 3, Pekowski teaches finding the event to be processed (Step 277 Col. 6 Ln. 21 – 23).

As to claim 4, Pekowski teaches the events to consist of function calls and operating system calls (Call 705/Parameters 715 Col. 10 Ln. 20 – 27: NOTE: These calls are also operating system calls because calls to DLL routine provide operating system services to application programs).

As to claim 5, Pekowski teaches sending a message to the application program interface if the interceptor logic cannot process the event (Step 276 Col. 6 Ln. 19 – 20).

As to claims 7,12,13 and 18, see the rejection of claim 1.

As to claims 8 and 14, see the rejection of claim 2.

As to claims 9,15 and 20, see the rejection of claim 3.

As to claims 10 and 16, see the rejection of claim 4.

As to claims 11 and 17, see the rejection of claim 5.

As to claim 19, see the rejections of claims 1 and 2.

Response to Arguments

2. Applicant's arguments filed 10/8/03 have been fully considered but they are not persuasive.

Applicant argues that the Pekowski prior art reference fails to disclose, teach or suggest a "generic interception communication interface that maintains communication between the application program interface and the intercept logic".

In Applicant's explanation of how the above limitation is not covered, the argument suggest that the prior art's implementation of "intercepting API events requires a large amount of tools-specific instrumentation code or relies upon the behavior of shared library dynamic symbol binding". However, the idea of intercepting API events **not** requiring a large amount of tools-specific instrumentation code or **not** relying upon the behavior of shared library dynamic symbol binding is not brought in the claims, thus not considered.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E Anya whose telephone number is (703) 305-3411. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Charles E Anya
Examiner
Art Unit 2126



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100